



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY.
NEW YORK, NY 10007-1866

NOV 17 2008

Mr. John Wilkins
The New Jersey Transit Corporation
One Penn Plaza East
Newark, New Jersey 07105

Dear Mr. Wilkins:

The U.S. Environmental Protection Agency (EPA) has reviewed the Federal Railroad Administration's (FRA) final environmental impact statement (FEIS) for the Portal Bridge Capacity Enhancement (CEQ # 20080412). The proposed project would enhance the capacity and improve the operation of the Portal Bridge, a rail crossing over the Hackensack River in Hudson County, New Jersey. This review was conducted in accordance with Section 309 of the Clean Air Act, 42 U.S.C. 7609, and Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(2)(C).

The existing Portal Bridge is a two-track, moveable swing-span bridge that was constructed by the Pennsylvania Railroad and began operation in 1910. It is a critical infrastructure element for Amtrak and New Jersey (NJ) Transit on the Northeast Corridor. The FEIS examines four build alternatives in addition to the "no build" scenario. The build alternatives involve two new bridges to replace the existing bridge and differ primarily with respect to the location of the southern bridge and the type of grade-separated crossing, either track fly-over or duck-under, included to improve railroad operations. The preferred alternative includes a three-track fixed northern bridge, a two-track moveable southern bridge built on a new southern alignment, and a duck-under structure for track 5 that will connect the Morris & Essex Line to the Northeast Corridor.

EPA's technical comments on the FEIS are as follows:

Air Quality

As stated in our March 31, 2008 comment letter on the draft EIS, the general conformity analysis does not adequately address the requirements of 40 CFR 93 Subpart B. At a minimum FRA needs to determine the direct emissions attributable to the construction of the project for each year of construction and compare these emissions to the established general conformity de minimis thresholds. EPA does not believe it is appropriate for a project of this size, scope, and duration to rely on emission estimates from Lower Manhattan projects scaled by project cost. Annual pollutant emissions for the construction of the Portal Bridge project will be dependent on the timeline of the various construction tasks which may not be similar to the Lower Manhattan timeline. Other

factors, such as labor rates and fuel costs, may have also changed significantly since the Lower Manhattan FEIS. In addition, marine sources, while intermittent, do still emit pollutants and must be accounted for in the analysis. Furthermore, FRA should be aware that sulfur dioxide (SO₂) has been identified as a precursor to PM_{2.5} (71 FR 40420, July 17, 2006) with a de minimis level of 100 tons per year and must also be addressed in the analysis.

EPA recommends that FRA conduct a general conformity applicability analysis using new emissions estimates for all applicable pollutants and precursors. This analysis can take into account any planned diesel emission reduction measures if such measures will be explicitly committed to in the Record of Decision (ROD). This new determination would also need to be made available for public comment. In the event that projected emissions exceed the de minimis thresholds (40 CFR 93.153), EPA, in cooperation with New Jersey Department of Environmental Protection, would be happy to discuss with FRA additional options for achieving a positive conformity finding.

Wetlands

- 1) The FEIS does not provide the maps necessary for environmental resource managers and the public to identify and quantify wetlands types and acreages.
- 2) The Riverbend Wetland Preserve wetlands reflect a rather unique remnant wetland within the New Jersey Meadowlands, exhibiting a historically resilient occurrence of low and high salt marsh. There has been considerable investigation of its flora, fauna and level of contamination, as noted in the Meadowland Environmental Research Institute's (MERI) library listings. Further, the Kearny Marsh occurs as the largest extent of intertidal brackish marsh within the Meadowlands. There appears to be no discussion of special ecological status of either site, and how that might influence mitigation.
- 3) Chapter 9 (new to the FEIS) does not identify the acreage of the temporary impacts to wetlands of the preferred alternative. According to the Mitigation Section of Chapter 5.6, temporary impacts will be treated as permanent for the purposes of mitigation.
- 4) While the FEIS discusses potential mitigation strategies, it does not include a mitigation plan that can be examined by the public. As we noted in our March 31, 2008 comment letter, FRA has again stated in the FEIS that NJ Transit and Amtrak will coordinate with stakeholders to determine appropriate mitigation after a preferred alternative is selected and "once engineering design has sufficiently progressed." In the absence of mitigation plans, the ROD should note that construction on the project cannot start until a mitigation plan is finalized and mitigation underway.

Green Acres

While the FEIS did include a discussion of the Green Acres diversion process, it did not supply an estimate of the time required for the process. The mitigation plan for the loss of this property as open space should be described in the ROD.

Cumulative Impacts

Expected wetlands' losses to the Hackensack Meadowlands from other transportation projects, such as the Teterboro Airport Runway Safety project, should be discussed at least qualitatively.

Thank you for the opportunity to comment on the FEIS. If you have any questions, please call Lingard Knutson or my staff at (212) 637-3747.

Sincerely yours,

A handwritten signature in black ink, reading "John Filippelli". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "Filippelli".

John Filippelli, Chief
Strategic Planning Multi-Media Programs Branch

cc: D. Valenstein, USDOT-FRA